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OF COUNSEL
ANDREW A. GORLICK*

August 30, 2013

Via ECF

Honorable Paula K. Chen
United States District Court Judge
United States District Court for the
Eastern District of New York,
225 Cadman Plaza East
Brooklyn NY 11201

Re: *Hoeffner et al v. D'Amato et al*
09 Civ 3160 (PKC) (CLP)

Dear Judge Chen:

We represent Defendants in the above referenced matter. We have just received, via ECF, a letter filed by Plaintiffs: 1) seeking extraordinary relief apparently to enjoin the operation of a federal statute, ERISA §4235, 29 U.S. C §1415; and 2) for a pre-motion conference on Plaintiffs' request to make a motion for partial summary judgment. Plaintiffs filed their letter on the eve of a holiday week without any advance notice to Defendants.

Defendants have initiated the ERISA §4235 transfer process required by Judge Ross's earlier order in this case. ERISA §4235 is a rarely applied and even more rarely litigated section of ERISA. Defendants respectfully submit that Your Honor should require a pre-motion conference before granting any of the relief sought by Plaintiffs, especially as it affects non-parties and the PBGC, possibly the entity best equipped to resolve the actuarial issues raised by Plaintiffs' letter.

Defendants seek the opportunity before such conference to respond to Plaintiffs' allegations concerning the posture of the case, in order that Your Honor has a fair picture of the matters before you in advance of the conference. Under Your Honor's rules, counsel would be expected to respond to the letter within seven days. Counsel is out of the office next week both because of the Labor Day holiday and because counsel observes both days of the Jewish New Year, Rosh Hashonah.

Counsel, respectfully requests that Your Honor grant Defendants an extension of time to respond to Plaintiffs' pre-motion letter from September 6 to September 13. Counsel has both emailed and left a telephone message for Plaintiffs' counsel seeking her consent to the request, but as of the writing of this letter has received no response.

GORLICK, KRAVITZ & LISTHAUS, P.C.

Honorable Paula K. Chen
United States District Court Judge
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Thank you in advance for your courtesy.

Respectfully submitted,

Gorlick, Kravitz
& Listhaus, P.C.

A handwritten signature in blue ink, appearing to read "Barbara S. Mehlsack", is written over a horizontal blue line.

Barbara S. Mehlsack